

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re: Kristyn Denise Walker,

Debtor.

Kristyn Denise Walker,

Plaintiff,

vs.

U.S. Department of Education,

Defendant.

/

Case No. 21-44722

Chapter 7

Hon. Thomas J. Tucker

Adv. Pro. No. 21-04203

**UNITED STATES' MOTION
FOR AN ORDER COMPELLING PLAINTIFF
TO FULLY COMPLY WITH THE UNITED STATES'
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

The Defendant United States of America, by and through its attorney, Dawn N. Ison, United States Attorney, and Kevin R. Erskine, Assistant United States Attorney, on behalf of the United States Department of Education, hereby moves this Court, pursuant to the Federal Rules of Civil Procedure 37 and Federal Rule of Bankruptcy Procedure 7037, for an order compelling Plaintiff/Debtor Kristyn Denise Walker to comply fully and completely to the First Request for Production of Documents served on Plaintiff by the United States on January 6, 2022.

In accordance with L.B.R. 9014-1(g), the undersigned's office requested concurrence from Pro Se Debtor Kristyn Denise Walker on February 16, 2022, by

email. As of the filing of the motion, no response was received.

A proposed order granting the relief requested is attached. A brief in support of this motion is submitted herewith and expressly made a part hereof.

Dated: February 17, 2022

DAWN N. ISON
United States Attorney

/s/Kevin R. Erskine
KEVIN R. ERSKINE (P69120)
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211 W. Fort Street, Suite 2001
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**BRIEF IN SUPPORT OF UNITED STATES'
MOTION FOR AN ORDER COMPELLING PLAINTIFF
TO FULLY COMPLY WITH THE UNITED STATES'
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Plaintiff Kristyn Denise Walker is seeking a determination that her \$19,859.14 student loan debt owed to the United States Department of Education is dischargeable pursuant to 11 U.S.C. § 523(a)(8). Although the burden in this matter is on the Plaintiff, she has not made any efforts to move the case forward and has failed to respond to the United States' discovery requests.

I. Background

The United States served the First Request for Production of Documents on Plaintiff on January 6, 2022. Plaintiff's responses were due February 3, 2022. When Debtor failed to produce the requested documents by February 3, 2022, the United States sent a letter to Plaintiff on February 9, 2022, reminding her that the responses were overdue. The letter also asked her to state when she would produce the requested documents and gave her the contact information for the United States Attorney's Office. As of this filing, Debtor has neither provided discovery responses nor contacted the United States regarding this matter.

II. Law

"The scope of discovery under the Federal Rules of Civil Procedure is traditionally quite broad." *Lewis v. ACB Bus. Servs., Inc.*, 135 F.3d 389, 402 (6th Cir. 1998). And the United States, like any litigant, is entitled to "obtain discovery regarding any non-privileged matter that is relevant" to its claims. Fed. R. Civ. P. 26(b)(1). A request for interrogatories and production of documents is one means of discovery available to a party seeking to pursue or defend a cause of action. Fed. R. Civ. P. 34. *See also* Fed. R. Civ. P. 27, 30, 31, 33, 36. When a party fails to respond to a discovery request, the seeking party entitled to have answers and production compelled by the Court, Fed. R. Civ. P. 37(a)(3)(A), (a)(3)(B)(iv), and (a)(4).

III. Analysis

The United States made 17 reasonable document production requests. [ECF No. 22]. These requests were tailored to the needs of the case and sought documents relevant to Plaintiff's claims in her complaint and the United States' possible defenses. Broadly characterized, the requests sought documents related to Plaintiff's student loans, her income and her efforts to maximize that income, her expenses and efforts to minimize those expenses, her good faith efforts to pay her student loans, and any conditions or circumstances that would prevent her from paying her student loans without incurring an undue burden.

Although the time to respond has passed, and despite the United States efforts to remind Debtor of the deadline, Debtor failed to object to the production requests, failed to produce any documents, and has failed to meaningfully participate in discovery. Because Debtor has failed to respond, the United States is entitled to have production compelled by the Court. Fed. R. Civ. P. 37(a)(3)(A), (a)(3)(B)(iv), and (a)(4).

WHEREFORE, for the reasons set forth above, the United States of America respectfully requests that this Court issue an order compelling Plaintiff to fully comply with the United States' First Request for Production of Documents [ECF No. 22] within 10 days of the order and, furthermore, order that if Plaintiff does not fully produce all the requested documents, the government can so notify

the Court and the Court will enter a judgment of non-dischargeability in favor of the United States in the amount \$19,859.14.

Dated: February 17, 2022

DAWN N. ISON
United States Attorney

/s/Kevin R. Erskine
KEVIN R. ERSKINE (P69120)
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211 W. Fort Street, Suite 2001
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**ORDER COMPELLING PLAINTIFF
TO FULLY RESPOND TO DISCOVERY**

The United States, on behalf of the United States Department of Education, having moved for an order compelling requests to produce from Plaintiff, Kristyn Denise Walker, and the Court being fully aware and advised in the premises, facts, and circumstances surrounding the relief requested in the motion, and for the reasons stated therein,

IT IS HEREBY ORDERED that Plaintiff, Kristyn Denise Walker must fully comply with the United States' First Request for Production of Documents within ten (10) days of the date of this order; and

IT IS FURTHER ORDERED that if Plaintiff, Kristyn Denise Walker fails to fully respond within ten (10) days of the date of this order, the government shall so notify this Court, and a judgment of non-dischargeability of the debt in favor of the United States, on behalf of the United States Department of Education, in the amount of \$19,859.14 will be entered.

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**NOTICE OF UNITED STATES' MOTION
FOR AN ORDER COMPELLING PLAINTIFF
TO FULLY RESPOND TO DISCOVERY REQUESTS**

The United States of America has filed papers with the court compelling plaintiff to fully respond to discovery requests.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in this motion, or if you want the court to consider your views on the motion, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

United States Bankruptcy Court
211 W. Fort Street
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Kevin R. Erskine
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: February 17, 2022

DAWN N. ISON
United States Attorney

/s/Kevin R. Erskine
KEVIN R. ERSKINE (P69120)
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
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CERTIFICATE OF SERVICE

I hereby certify that on, February 17, 2022, the United States' Motion for an Order Compelling Plaintiff to Fully Respond to Discovery Requests, Brief in Support, Notice Pursuant to 9014-1, and Certificate of Service, were electronically filed with the Clerk of the Court using the ECF system, was served on Pro Se Plaintiff by certified first class postage pre-paid mail at the following address:

Kristyn Denise Walker
26692 Chippendale Street
Roseville, MI 48066

Dated: February 17, 2022

DAWN N. ISON
United States Attorney

/s/Kevin R. Erskine
KEVIN R. ERSKINE (P69120)
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
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